LEGISLATIVE GENERAL COUNSEL
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H.B. 79

1 **ENTICING A MINOR AMENDMENTS**
2 2012 GENERAL SESSION
3 STATE OF UTAH
4 **Chief Sponsor: R. Curt Webb**
5 Senate Sponsor: _____
6
7 **LONG TITLE**
8 **General Description:**
9 This bill modifies the Criminal Code regarding enticing a minor regarding sexual
10 activity.
11 **Highlighted Provisions:**
12 This bill:
13 ▸ modifies the offense of enticing a minor to engage in sexual activity to include acts
14 of soliciting, seducing, luring, or enticing the minor when the offender does not then
15 engage in sexual activity with the minor.
16 **Money Appropriated in this Bill:**
17 None
18 **Other Special Clauses:**
19 None
20 **Utah Code Sections Affected:**
21 AMENDS:
22 **76-4-401**, as last amended by Laws of Utah 2008, Chapter 342
23
24 *Be it enacted by the Legislature of the state of Utah:*
25 Section 1. Section **76-4-401** is amended to read:
26 **76-4-401. Enticing a minor -- Elements -- Penalties.**
27 (1) As used in this section:

H.B. 79

28 (a) "Minor" means a person who is under the age of 18.
29 (b) "Text messaging" means a communication in the form of electronic text or one or
30 more electronic images sent by the actor from a telephone or computer to another person's
31 telephone or computer by addressing the communication to the person's telephone number.
32 (2) (a) A person commits enticement of a minor when the person knowingly uses or
33 attempts to use the Internet or text messaging to solicit, seduce, lure, or entice a minor or
34 another person that the actor believes to be a minor to engage in any sexual activity which is a
35 violation of state criminal law.
36 (b) A person commits enticement of a minor when the person knowingly uses the
37 Internet or text messaging to:
38 (i) initiate contact with a minor or a person the actor believes to be a minor; and
39 (ii) subsequently to the action under Subsection (2)(b)(i), by any electronic or written
40 means, solicits, seduces, lures, or entices, or attempts to solicit, seduce, lure, or entice the
41 minor or a person the actor believes to be the minor to engage in any sexual activity which is a
42 violation of state criminal law.
43 (3) It is not a defense to the crime of enticing a minor under Subsection (2), or an
44 attempt to commit this offense, that a law enforcement officer or an undercover operative who
45 is working with a law enforcement agency was involved in the detection or investigation of the
46 offense.
47 (4) An enticement of a minor under Subsection (2)(a) or (b) [~~with the intent to~~
48 ~~commit:~~] when the sexual activity that the actor solicits, seduces, lures, or entices, or attempts
49 to solicit, seduce, lure, or entice would be:
50 [~~(a) a first degree felony is a:~~]
51 [~~(i) second degree felony upon the first conviction for violation of this Subsection~~
52 ~~(4)(a); and~~]
53 [~~(ii) first degree felony punishable by imprisonment for an indeterminate term of not~~
54 ~~fewer than three years and which may be for life, upon a second or any subsequent conviction~~
55 ~~for a violation of this Subsection (4)(a);~~]
56 [~~(b) a second degree felony is a third degree felony;~~]
57 [~~(c) a third degree felony is a class A misdemeanor;~~]
58 [~~(d) a class A misdemeanor is a class B misdemeanor; and~~]

59 [~~(c) a class B misdemeanor is a class C misdemeanor.~~]
60 (a) a first degree felony, is a second degree felony, except under Subsection (4)(b);
61 (b) a first degree felony, is a first degree felony if the actor has been previously
62 convicted for a violation of Subsection (4)(a), and is punishable by imprisonment for an
63 indeterminate term of not fewer than three years and which may be for life, upon a second or
64 any subsequent conviction for a violation of Subsection (4)(a);
65 (c) a second degree felony, is a third degree felony;
66 (d) a third degree felony, is a class A misdemeanor;
67 (e) a class A misdemeanor, is a class B misdemeanor; and
68 (f) a class B misdemeanor, is a class C misdemeanor.
69 (5) (a) When a person who commits a felony violation of this section has been
70 previously convicted of an offense under Subsection (5)(b), the court may not in any way
71 shorten the prison sentence, and the court may not:
72 (i) grant probation;
73 (ii) suspend the execution or imposition of the sentence;
74 (iii) enter a judgment for a lower category of offense; or
75 (iv) order hospitalization.
76 (b) The sections referred to in Subsection (5)(a) are:
77 (i) Section 76-4-401, enticing a minor;
78 (ii) Section 76-5-301.1, child kidnapping;
79 (iii) Section 76-5-402, rape;
80 (iv) Section 76-5-402.1, rape of a child;
81 (v) Section 76-5-402.2, object rape;
82 (vi) Section 76-5-402.3, object rape of a child;
83 (vii) Subsection 76-5-403(2), forcible sodomy;
84 (viii) Section 76-5-403.1, sodomy on a child;
85 (ix) Section 76-5-404, forcible sexual abuse;
86 (x) Section 76-5-404.1, sexual abuse of a child and aggravated sexual abuse of a child;
87 (xi) Section 76-5-405, aggravated sexual assault;
88 (xii) any offense in any other state or federal jurisdiction which constitutes or would
89 constitute a crime in Subsections [~~(4)~~] (5)(b)(i) through (xi); or

90 (xiii) the attempt, solicitation, or conspiracy to commit any of the offenses in
91 Subsections [~~(4)~~] (5)(b)(i) through (xii).

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Office of Legislative Research and General Counsel